THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20171 of 2005

13.9.2005

Between:

A.Narayana, S/o.Ramaiah, Labourer,

Punganuru, Chittoor District, A.P.

… Petitioner

AND

1. The Election Officer and Commissioner, Municipal Council,

Punganoor, Chittoor District.

And others.

… Respondents

ORDER:

The petitioner is resident of Punganoor Municipality. On the eve of municipal elections 2005, he submitted nomination on 05.9.2005 as a candidate of Communist Party of India. His nomination was rejected on 06.9.2005. Hence the present writ petition seeking a direction to the Election Officer to accept the nomination for Ward No.22 of Punganoor Municipal Council.

At the stage of admission itself, the learned Standing Counsel for Punganoor Election Commission has placed before this Court a copy of the report of the Election Officer sent to District Election Authority, Chittoor. It is stated therein that on the date of scrutiny, it was found that the petitioner has not produced 'No Due Certificate' in the Municipality and therefore, his nomination was rejected.

Learned Counsel for the petitioner, Sri B.Prabhakar, however, submits that the petitioner has paid necessary property tax and obtained 'No Due Certificate' from Punganoor Municipality and that the petitioner has enclosed the same to the nomination. The learned Standing Counsel for State Election Commission and the learned Standing Counsel for Municipality, however, contends that the improper rejection of nomination is a ground for Election Petition, the writ petition is not maintainable.

In **V.Narayana v. Election Officer, Alwal Municipality** (**Narayana**, for brevity), this Court has held that when a nomination is rejected, a writ petition would not lie. It was held therein that challenge to election means and includes a challenge to any intermediary stage in the election and that when the nomination is rejected or accepted improperly, the same has to be agitated by way of Election Petition. The decision in **Narayana** was followed by Full Benches of this Court in

A.P.Sarpanchas Association v Govt. of A.P. and **G.Kanaka Durga v State Election Commissioner**. Further in **C.Subrahmanyam v K.Ramanjaneyulu**, the Supreme Court held that even if the election is challenged on the ground of non-compliance of the provisions of the A.P. Panchayat Raj Act, 1994 or Conduct of Election Rules, 1961, the writ petition would not be maintainable and it is only by way of Election Petition that such thing can be challenged. In view of the settled position, this writ petition is not maintainable.

However, it shall be open to the petitioner to file Election Petition before appropriate Tribunal after declaration of results, in which event, the said Tribunal shall dispose of the Election Petition within six months after issuing notice to the contesting respondents therein.

The writ petition, with the above observations and directions, is dismissed. No costs.

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(**V.V.S.RAO,J**)

September 13, 2005.

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